

The Leesburg Planning Commission met on Thursday, March 2, 2006 in the Council Chambers, 25 West Market Street, Leesburg, Virginia. Staff members present were Susan Swift, Barbara Beach, Wade Burkholder, Brian Boucher, William Ackman and Linda DeFranco

### **CALL TO ORDER**

The meeting was called to order at 7:05pm by Chairman Wright

### **PLEDGE OF ALLEGIANCE AND ROLL CALL**

Present: Chairman Wright  
Commissioner Bangert  
Commissioner Barnes  
Commissioner Burk  
Commissioner Hoovler  
Commissioner Kalriess  
Mayor Umstattd

Commissioner Moore was absent.

### **ADOPTION OF AGENDA**

Commissioner Bangert moved to adopt the agenda as presented.

Motion: Bangert  
Second: Burk  
Carried: 5-0

Commissioner Hoovler was not present for the vote

### **APPROVAL OF MINUTES**

Commissioner Barnes moved to adopt the minutes of the January 19, 2006 meeting with a correction in the attendance listing.

Motion: Barnes  
Second: Bangert  
Carried: 4-0-1

Commissioner Kalriess abstained from this vote. Commissioner Hoovler was not present for the vote.

Commissioner Burk moved to adopt the minutes of the February 2, 2006 meeting.

Motion: Burk  
Second: Kalriess  
Carried: 5-0

Commissioner Hoovler was not present for this vote.

### **CHAIRMAN'S STATEMENT**

Chairman Wright reviewed the agenda for the evening, stating that there would be a closed session regarding litigation after New Business.

### **PETITIONERS**

None

Commissioner Barnes requested that the vote on the special exception for Loudoun Country Day School be moved up on the agenda to precede the Loudoun Sport and Health Club public hearing. Hearing no objection, Chairman Wright agreed to this and recused himself from this matter because of a conflict of interest.

### **ZONING**

Wade Burkholder, Sr. Planner, came forward to state that there had been no additional public comment on TLSE-2005-0007, Loudoun Country Day School. He pointed out that there were no significant changes to the recommendations for approval with the exception of clarifying the requirements for the pedestrian crosswalk.

Randy Hollister of Loudoun Country Day School came forward to ask that the five year sunset clause be eliminated. He felt that this could be done administratively and is seeking permanent approval of the trailers. He asked that there be a yearly review process. They added language to the provision on the pedestrian crosswalk, and said that the Fire Marshall letter has come in. He said the crosswalk requirement does not have consistency around town with several public schools. The school communicates with parents every year that they should not cross Fairview Street. He feels that the crosswalk would encourage people to park across the street and could be more of a hazard than a help.

Commissioner Barnes asked Mr. Burkholder how trailers are approved when public schools request them? Mr. Burkholder said it depends on the zoning district that the school is in. Sometimes they can be approved by trailer permits, and other times there is a special exception process involved. Mr. Barnes commented that if the public schools don't have to go through the process, the rule should apply to private schools also. They do not cost taxpayers anything and possibly should even have priority. Brian Boucher addressed the by right which applies to several of the public schools. He emphasized that the zoning of the district determined the process.

Mayor Umstattd commented on the crosswalk at Catoctin Elementary School. She agreed with Commissioner Barnes recommendation that as long as this remains Loudoun Country Day School, the trailers could remain. Once there is a sale of the property, the special exception would expire.

Commissioner Burk felt that the crosswalk should be installed and properly marked with flashing lights. With regard to the trailers he felt the 5-year time limit was a good idea. He doesn't feel that putting another time limit on this is a good idea. Mr. Burk feels this should be tied to the use of the current school and not transfer to any future use of the property without further public input.

Mr. Hollister said there is currently a binding and well established document. They may sell this to another school who would need the additional trailers. If they sell to someone who would change the use, then the document would not transfer. Barbara Beach asked for clarification on the five year timeframe. If this is sold in two years, will the trailers stay for three more years? Mayor Umstattd said the neighborhood is not happy that the trailers are there. She does not think the new owners should be allowed to keep the trailers.

Bill Ackman, Chief of Engineering, said the trailers were approved as temporary trailers. The drainage is not set up to accommodate any permanent statement. Mr. Hollister said then the original document has an ambiguous interpretation of the word permanent. He said the engineers that did the site plan said because the structures are under the 10,000 s.f. minimum they did not require a grading permit. Mr. Ackman said this rule applies to Loudoun County grading permits. Commissioner Kalriess asked Mr. Boucher to clarify permanent versus temporary. He commented that temporary would have wheels, permanent would require a foundation. Barbara Beach commented that BOCA requirements go to the structure, and the grading and drainage falls under an engineering regulation.

Commissioner Burk reiterated that if the exception stays with the ownership, it doesn't mean the new owner would be denied, they would have to reapply.

Commissioner Bangert asked if school employees were present in the morning and afternoon, and would the school consider having someone monitor the crossing of Fairview Street. Mr. Hollister said they do post someone and could definitely post another person to over see this. Ms. Bangert said she would be willing to forego the flashing light requirement for the crosswalk. Regarding the special exception and use, she understands that they want to sell to another school. There is no guarantee that another school would be as conscientious of a neighbor as they have been. If you don't sell to a school there are several other uses. Because of this, she feels the special exception should be limited to the use of Loudoun Country Day School.

Mr. Hollister said they never heard any negative comments. He was curious why the Commissioners were saying that the neighbors didn't like the trailers. His recollection is that the only negative comments were made years ago.

Commissioner Barnes suggested putting in the five year sunset, and once the property is sold any remaining time could transfer and then the new owner would have to reapply. Commissioner Bangert said they have no control over who might purchase the land, and even if it was another school, allowing the trailers to remain might not be in the neighbors best interest. Commissioner Kalriess said these trailers were put in as temporary structures and only for Loudoun Country Day School. The neighbors do have a concern about the permanency of these structures. Letting this special exception lapse into a new owner does not make sense. He went on to say that adequate time should be extended to a new owner to properly address the trailer situation. Commissioner Burk said that appropriate time for new owners to deal with the trailers is a good idea. It's a compliment to the school that the neighbors are putting up with the trailers, and will put up with them as long as the current school is there. They really don't want to see these as permanent.

Mr. Hollister had a hard time understanding this since there is a binding document in place.

Commissioner Kalriess said these were permitted as a temporary solution to space needs. If this is still required then they should become permanent structures, not trailers.

Commissioner Hoovler agreed with Ms. Bangert's comments on a crosswalk monitor. He does not feel that a yearly review puts too much pressure on both the school and the staff. He feels the use should remain with Loudoun Country Day School. Mr. Hollister asked if language could be inserted that would ensure an expedited process for a new owner. Barbara Beach said this type of sale could be contingent on getting a special exception. Legally they are working on streamlining the process. Commissioner Kalriess said he still feels it will take at least 8 months. Barbara Beach said no promise could be made that required future Planning Commission or Council action.

Commissioner Kalriess talked about the annual review process. If the Commission were to consider this, what was meant by "official complaint" versus a "request from any person." Mr. Hollister said it was merely there for documentation. Mr. Kalriess didn't think this would cause any problem. With regard to the crosswalk, contact was made with Mr. Adamo. Mr. Kalriess felt the monitor was a good idea. However, if a crosswalk is put in, then all features must be included. He then asked the Commission to voice their opinions on the crosswalk.

Commissioner Barnes felt that the teacher/monitor was a good idea. Commissioner Bangert commented that this would be for Loudoun Country Day School only. If a new school were to come in, the crosswalk would have to be constructed. Commissioner Burk agreed. Mr. Hollister said that Loudoun County Public Schools would install and maintain the crosswalk if Loudoun Country Day School buys the flashing lights. Commissioner Burk asked if they could add language to Paragraph 2 to put in a timeframe. Mr. Kalriess suggested something like "The special exception shall expire in \_\_\_\_ months" Barbara Beach commented that there was a problem with bestowing a right

on someone for eight months and then possibly denying the special exception. This could cause them to spend unnecessary money. Commissioner Barnes asked if this could be an annual review? Mr. Boucher said it could be done, however, it could make the use permanent. Barbara Beach said annual reviews are done in some jurisdictions, mostly the first two years to see if it is still acceptable to the neighborhood, then a longer period is introduced.

Commissioner Kalriess asked if there was a motion?

Commissioner Bangert moved that the PC approve TLSE-2005-0007, Loudoun Country Day School, with the conditions stated in the report with amendments. The condition regarding the pedestrian crosswalk shall read as follows: *Within seven days after the date of approval of this special exception, Applicant shall establish and maintain a written school policy applicable during school hours that prohibits parking on Fairview Street and advises children and parents alike not to cross Fairview Street to get to or from school grounds. A school employee will be posted at Fairview Street in the beginning and at the end of the school day. If such a policy is not established and reasonably enforced, the applicant shall be required to install a crosswalk and flashing 15 MPH speed limit signs on Fairview Street to standards established by the Department of Engineering and Public Works.* Commissioner Bangert further moved that the following paragraph will apply with regard to the sunset provision: *The special exception shall be granted to the applicant only, Loudoun country Day School, or to any corporation in which the applicant has a controlling interest. In the event the applicant, Loudoun Country Day School, is no longer the user of the property, the special exception approval shall expire and not transfer to a new user unless the new user obtains a new special exception approval by the Planning commission and Town Council and agrees to comply with all Code requirements for permanent structures including, but not limited to drainage, site development, etc. The modular classroom buildings shall not be vested or grandfathered.*

Motion: Bangert  
Second: Burk  
Carried: 5-0

### **PUBLIC HEARING**

Chairman Wright opened the public hearing on TLZM 2005-0004, Loudoun Sport and Health Club, 131 Fort Evans Road, rezoning of 1.92 acres from R-6 to B-2.

Mike Romeo of Walsh Collucci introduced Bill Wolf of Work Furniture. Mr. Wolf expressed his excitement of becoming part of the Leesburg community. He described the Pennsylvania based family owned furniture store. They anticipate employing around 80 people at the store.

Mr. Romeo then continued with a powerpoint presentation describing the site location and explaining that the site presently has split zoning, B-2 and R-6. They are seeking a rezoning to B-2 for the entire parcel. Currently the Loudoun Sport and Health Club is on

the site. Presently this consists of 48,904 square feet. Wolf Furniture will take up 69,974 square feet. He showed pictures of the proposed building and explained how it would be situated on the site, including the location of the loading area and the buffering from the Bypass. Next, Mr. Romeo described the transportation impact which is anticipated to be lower than the health club facility currently on the site. This led to the anticipated frontage improvement contribution request. They will most likely contribute the amount requested.

Wade Burkholder, started with the modification of the landscape buffer. It is a request to decrease the rear buffer and increase the side buffers. This is so that they will be more visible from the bypass. He went on to review the elevations of the building and said they have met with the preservation planner along with other town staff to see if this design would fit into the area. With regard to the town plan, objective 7 asks that equitable cost sharing for transportation be adhered to. While the applicant mentioned that there were some issues with numbers, staff came up with some different scenarios, one to comply with the town plan suggestion, and one that was a percentage calculation. The third option was to include the proffer as part of CIP #55, which is a sidewalk and storm drainage improvement project on Fort Evans Road. The options vary from \$2.72/sf to \$16.37/sf. Staff recommends denial due to lack of compliance with the Transportation Element of the 2005 Town Plan and the needed clarifications and corrections in the Proffer Statement dated February 10, 2006.

Bill Ackman, Chief Engineer addressed the road improvements scheduled for the area. There was some discussion on the amount of traffic generated and the financial impact.

Holly Plourde of Cedar Walk Circle said she had not seen any plans on how this will look from Ft. Evans Road. Further she has some concerns about the traffic on the road. It is not wide enough now, and this will exacerbate the problem.

Chairman Wright asked staff to update everyone on the CIP project and how the road will be affected. Wade Burkholder responded that the CIP was for drainage improvements and sidewalk. Bill Ackman said the road will be widened and will go to a 38 foot width. Mr. Burkholder referred to a traffic study that was done and compared a traffic study that all improvements will generate 438 trips in the am and 550 in the pm. There will be a substantial increase in traffic on this road. Commissioner Bangert asked if there was improvement all the way to the intersection or just part of the road. Commissioner Kalriess asked if the traffic generated by this store should affect the way the traffic study is interpreted since it does not generate traffic during peak hours.

Chairman Wright asked about the hours of operation and how they would affect traffic in the area once the anticipated office buildings are in place. What are the hours of operation? Mr. Romeo responded 10am to 9pm.

Commissioner Hoovler asked about delivery schedules. What size truck, etc. Mr. Wolf responded that the only truck traffic will be a 48' trailer twice a week. He added that

regarding the traffic, they bring the scope of the parking lot in to a smaller size. Their store will not generate a large amount of traffic.

Chairman Wright asked about the appearance from the homes behind the store. Mr. Romeo showed the architectural rendering and explained what the back part of the store would look like. He went on to add information about lighting and the parking lot landscaping.

Commissioner Kalriess had a question about the existing use credit. Does the town plan or zoning ordinance credit back what is existing on site? Bill Ackman said the formula resulted in a high number so they recalculated to make the share more realistic. Brian Boucher reiterated that \$1.2 million was very pricey for the square footage being added in regard to road improvements.

Commissioner Barnes asked what the final number was. Wade Burkholder responded that the \$1.2 million was a result of the formula. Bill Ackman said they are recommending the \$300,000 number. Mike Romeo said the formula did result in an excessive amount especially since the calculated trips generated were not that high.

Commissioner Hoovler asked how truck trips were calculated. Mr. Wolf responded that there would not be very many truck trips, one truck, twice weekly. There is no local delivery from the store. Mr. Hoovler went on to say he did not feel the building design lent itself to the character of Leesburg. Mr. Wolf said they had worked with the BAR and other staff and this design was agreed upon. Mr. Hoovler asked about the lighting on the bypass side of the store. Mr. Romeo responded that they are still working on this.

Commissioner Kalriess commented on the transportation issue and the way the contribution amount was calculated. The current use is pretty much dead, and since the health club has not been active, he feels that the trips generated need to be recalculated. Weekend traffic is the most important since that is when Leesburg has its most traffic problems. He went on to discuss the landscaping changes. With the stone facing that will be put on the building, why plant bushes in front of it. It should be exposed.

Mayor Umstattd thanked Wolf Furniture for coming to Leesburg. She asked if they were comfortable that the sign would be visible in time for people to be able to exit in time. Mr. Wolf responded that they would like more signs, but feel that the sign that is planned should work. The Mayor said if the signage regulation are too restrictive, she would like to see if the differences could be worked out rather than create a problem. She went on to say that she liked the design of the Hagerstown store over what is being proposed for the Leesburg store.

Commissioner Burk shared the concern about giving credit for the existing use with regard to the roadway improvements. He also did not agree with the comment about providing some funds for the loss of the tennis courts and pool. They would have gone away no matter who purchased the property, and they were private, not public.

Commissioner Bangert was not certain she agreed with the sideyard modifications. She also felt if the design were changed to look more like the Hagerstown store, perhaps they could work on the signage issue. There are also too many canopy trees that will have leaves only about 6 months out of the year, perhaps they could add some evergreens.

Chairman Wright asked why the higher light poles were agreed to. Wade Burkholder said there was not a restriction in this area. What is the best logic for the off site road improvement project? \$1.2 million is too high, but what is the best logic for these road improvements? Bill Ackman explained that the numbers relate to town plan language. Mr. Wright then mentioned the new office buildings that will be constructed, and asked how a furniture store fits into the scenario of office/office/hotel/furniture store. Why should this store be considered something other than a big box regional retail use. He also was surprised by the parks and recreation proffer request. He then asked if they felt if their employees would be able to live in the community? Mr. Wolf stated that he felt that many of them would. Chairman Wright concluded by saying this application would be considered at the first meeting in April.

Commissioner Bangert requested that the rationale for the transportation numbers be agreed upon before the next meeting.

#### **SUBDIVISION AND LAND DEVELOPMENT**

None

#### **COMPREHENSIVE PLANNING**

None

#### **COUNCIL AND REPRESENTATIVES' REPORTS**

None

#### **STAFF AND COMMITTEE REPORTS**

Susan Swift mentioned that the fee information on development and review fees will be available at the next meeting.

#### **OLD BUSINESS**

Review and action on proposed calendar. Chairman Wright stated his intent when he devised this calendar.

Commissioner Bangert liked the calendar and stated that she would like to see an updated version in each packet that they receive.



Commissioner Bangert moved to endorse the calendar and to include it in each packet as a running document.

Motion: Bangert  
Second: Hoovler  
Carried: 6-0

Next discussion on the edits to the Bylaws was discussed. Chairman Wright explained the changes as follows: added the footer so that the updates and changes were dated; under meetings he added language noting that the first meeting of the month would be a business meeting and the second meeting a worksession; under commission representatives he set out the liaison roles and the representative role; under order of business the language applies to the order of public hearing and business meetings; added language introducing the concept of the consent agenda and set agenda of worksessions based on the needs; added the option for PC action; struck the ten-day period; and struck references to suspending rules, language added elect to defer; Section 2.6 regarding requiring the certified planning commissioner's training; in Section 2.7 he had a question – is the conflict of interest section needed? Barbara Beach said that state code provides for this so it is not necessary. Lastly they added the duties of officers.

Commissioner Hoovler asked about the consent agenda. They are reserving the right to use this mechanism, will this be a part of the agenda or will it be determined the night of the meeting. Chairman Wright said the BAR does it the night of the meeting in some cases. Barbara Beach said the way the BAR does it is contrary to what should happen. The public should know ahead of time that an item is being considered on the consent agenda. This is important since it determines how many people an applicant may bring to a meeting. A public hearing cannot be a part of the consent agenda. Commissioner Kalriess said he understood that a public hearing could go on the consent agenda as long as there is no opposition. Basically the public hearing is part of the regular agenda, then, if there is no public input, it can be put on the consent agenda at the next meeting.

Commissioner Bangert asked if they want something removed from the consent calendar, should it be through direct commission communication, or done the night of the meeting? Barbara Beach said it needed to be part of a public process. Basically all staff need to be in attendance because no one ever knows if an item will remain on the consent agenda. There was some discussion on where the consent agenda would fall on the meeting agenda. Barbara Beach asked why they adopt the agenda in the first place. Commissioner Bangert said they often move things around. Chairman Wright said he feels it should be on the agenda following the Petitioners' section and prior to the public hearing. It was also determined that the Preview statement needed to be deleted from the Bylaws. The consent agenda should be addressed in Section 2.2, order of agenda and the following statement should be added: "Should members of the Planning commission have concerns regarding an application, it will be removed from the consent agenda." Commissioner Kalriess questioned the language of the public hearing procedures with regard to deferring the vote. After some discussion it was decided to simplify the

language to read as follows: "Unless the Commission elects to defer their vote, the Commission shall vote immediately following the public hearing.

Discussion regarding the VCPA class requiring new commissioners to attend was discussed. Commissioner Hoovler said there was no way to really require their attendance. The Commission agreed that Councilmembers should strongly recommend that their Commission appointees attend this class. Barbara Beach suggested that a resolution be done to the Council asking that they let their appointees know that this class exists and urging them to attend. They should know up front that this is available. Chairman Wright will send a letter to the council resolving that the Planning Commission strongly recommends that all newly appointed commission members attend the Virginia Certified Planning Commissioners Program.

Chairman Wright recapped the changes to the By Laws. In Section 2.2 they struck the word *Preview Cases* and after *Remarks by Petitioners*, they added *Consent Agenda*. The second to the last paragraph in Section 2.2 was changed to read *CONSENT AGENDA: Should members of the Planning Commission have concerns, or interested citizens have concerns, the application will be removed from the consent agenda. If all parties are in agreement and there is no public opposition, the item will remain on the consent agenda for approval.*

In Section 2.3 following the Public Hearing Procedures, changed last paragraph to read *Unless the Commission elects to defer their vote, the Commission shall vote immediately following the public hearing.* Section 2.8 was changed to 2.6. Section 2.7 was removed and Section 2.6 was changed to 2.7 as follows: *It is resolved by the Commission that all newly appointed members to the Planning Commission shall attend the Virginia Certified Planning Commissioners Program sponsored by the Citizens Planning Education Association of Virginia.*

Commissioner Hoovler moved to adopt the revised ByLaws dated 3.2.06 as were drafted and changed by the Chairman.

Motion: Hoovler

Second: Burk

Carried: 6-0

Regarding the motion to initiate optimization of Subdivision Ordinance Provisions, Barbara Beach has already started work on this and will present information at the second meeting in April.

Procedures follow-up. Susan Swift said the instructions, flow chart and the timetable were updated.

Commissioner Kalriess said he had a question on the outline and how the action would relate to the change in the Bylaws that they just approved. Barbara Beach said the rule was that they would vote that evening and the outline will match the action.

Commissioner Bangert referred back to a case where they felt that in the middle of the application process the Council adopted the standard for the schools. To avoid this in the future can the Capital intensity factor issues be brought up saying they might change since they are in the process at this time. Susan Swift said they did notify them when this came up, and said they do notify applicants of any changes in the process that happen while they are in their application process. Susan Swift said that staff will make sure that this information is disseminated to potential applicants.

### **NEW BUSINESS**

Chairman Wright moved that pursuant to Section 2.2- 3711A7 of the Code of Virginia, I move that the Leesburg Planning Commission convene in a closed session to discuss legal matters pertaining to the Centex litigation.

Motion: Wright  
Second: Kalriess  
Carried: 6-0

### **ADJOURNMENT**

The Planning Commission returned to chambers and adjourned at 10:53 pm.

**SUBMITTED BY:**

**APPROVED:**

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**Linda DeFranco, Commission Clerk**

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**Kevin Wright, Chairman**